



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,367	09/02/2003	Reid Rabon	163.1436USD1	4230

7590 07/12/2006

Attention of Mark T. Skoog
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/654,367

Applicant(s)

RABON ET AL.

Examiner

Charles I. Boyer

Art Unit

1751

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to applicants' request for continued examination received May 1, 2006. Claims 42-59 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 42-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lentsch et al, US 5,880,088.

Lentsch et al teach solid block rinse aids for dilution in a washing machine and subsequent rinsing of utensils (see abstract). Lentsch et al specifically teach that "The liquid materials of the invention can be adapted to a solid block rinse by incorporating into the composition a casting agent. Typically organic and inorganic solidifying materials can be used to render the composition solid. Preferably organic materials are used because inorganic compositions tend to promote spotting in a rinse cycle. The most preferred casting agents are polyethylene glycol and an inclusion complex comprising urea and a nonionic polyethylene or polypropylene oxide polymer.

Art Unit: 1751

Polyethylene glycols (PEG) are used in melt type solidification processing by uniformly blending the sheeting agent and other components with PEG at a temperature above the melting point of the PEG and cooling the uniform mixture" (col. 11, lines 8-20, emphasis added by the examiner). An example of such a composition comprises 73% EO/PO block polymer, silicone antifoam, and 16% urea (col. 16, example 5). The EO/PO polymers taught by the reference appear to be the same as those presently claimed (see col. 7, lines 36-52). Accordingly, Lentsch et al appear to teach the exact same rinsing composition as claimed by applicants, the only difference being the rinse aid of the reference is used for rinsing cookware and the present claims are drawn to rinsing medical equipment. The examiner maintains that the medical equipment as broadly defined in the present claims overlaps the utensils taught by the reference. For example, an "instrument or device" as claimed could refer to almost anything, and note that the rinse aid of the reference is used to rinse plastic, glass, and stainless steel (col. 17, table 5), any of which materials could be used in medical applications. Accordingly, one of ordinary skill in the art would recognize the utility of the rinse aid of the reference for rinsing other types of utensils, including medical equipment, given the fact that a great deal of medical equipment is formulated from plastic, glass, and stainless steel, the very materials Lentsch et al teach as being effectively

Art Unit: 1751

rinsed by their rinse aid composition. With respect to the apparatus, the claim appears to describe a standard commercial dishwasher which does not add patentable weight to the claims.

Applicants have traversed this rejection on the grounds that the reference does not teach the apparatus presently claimed. The examiner maintains such an apparatus is commercially available and widely used for industrial dishwashing applications. Accordingly, such an apparatus does not represent an unobvious difference over the prior art.

3. Claims 42-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz et al, US 5,698,513.

Schulz et al teach solid block rinse aids for dilution in a washing machine and subsequent rinsing of utensils (see abstract). An example of such a composition comprises 84.48% EO/PO block polymer, 12% urea, and 3.5% water (col. 14, example 2). Accordingly, Schulz et al appear to teach the exact same rinsing composition as claimed by applicants, the only difference being the rinse aid of the reference is used for rinsing cookware and the present claims are drawn to rinsing medical equipment. The examiner maintains that the medical equipment as broadly defined in the present claims overlaps the utensils taught by the reference. For example, an "instrument or device" as claimed could refer to almost anything, overlapping utensils also used as cookware, for example knives, trays, and pans. Accordingly, one of ordinary skill in the art would

Art Unit: 1751

recognize the utility of the rinse aid of the reference for rinsing other types of utensils, including medical equipment, based on this natural overlap. With respect to the apparatus, the claim appears to describe a standard commercial dishwasher which does not add patentable weight to the claims.

Applicants have traversed this rejection on the grounds that the reference does not teach the apparatus presently claimed. The examiner maintains such an apparatus is commercially available and widely used for industrial dishwashing applications. Accordingly, such an apparatus does not represent an unobvious difference over the prior art.

4. Claims 42, 47, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al, US 5,234,719.

Richter et al teach microbicidal compositions for sanitizing food contact surfaces in health care environments (col. 1, lines 9-11). An example of such a composition is a solid formation that is diluted with water and comprises 12.81% EO/PO block polymer, octanoic acid (satisfies the defoamer limitation), 60% urea, and 8% propylene glycol (col. 15, table 7 and col. 18, claim 18). Richter et al do not specifically teach a method of rinsing medical equipment, however, as Richter et al contemplate their composition for use in

Art Unit: 1751

health care environments, it would have been obvious to one of ordinary skill in the art to use the composition for this purpose. With respect to the apparatus claimed, note that the composition may be diluted and used in a suitable dispenser (col. 15, example VII). The examiner maintains one of ordinary skill in the art would recognize that a dishwasher is such a dispenser. As the claim appears to describe a standard commercial dishwasher, the examiner maintains this is an obvious design choice to one of ordinary skill in the art wishing to sanitize equipment in a suitable apparatus.

Applicants have traversed this rejection on the grounds that the reference does not teach the apparatus presently claimed. The examiner maintains such an apparatus is commercially available and widely used for industrial dishwashing applications. Accordingly, such an apparatus does not represent an unobvious difference over the prior art.

5. Claims 42, 47, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bull, US 5,310,549.

Bull teaches germicidal compositions for use in health care environments (col. 1, lines 5-10). An example of such a composition is a solid formation that is diluted with water and comprises 10% EO/PO block polymer, coconut fatty acid (satisfies the defoamer limitation), 48.8% urea, and at least

Art Unit: 1751

5% water (col. 9, example 7). Bull does not specifically teach a method of rinsing medical equipment, however, as Bull contemplates her composition for use in health care environments, it would have been obvious to one of ordinary skill in the art to use the composition for this purpose. With respect to the apparatus claimed, note that the composition may be diluted and used in a suitable dispenser (col. 7, lines 6-11). The examiner maintains one of ordinary skill in the art would recognize that a dishwasher is such a dispenser. As the claim appears to describe a standard commercial dishwasher, the examiner maintains this is an obvious design choice to one of ordinary skill in the art wishing to sanitize equipment in a suitable apparatus.

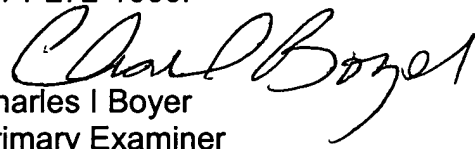
Applicants have traversed this rejection on the grounds that the reference does not teach the apparatus presently claimed. The examiner maintains such an apparatus is commercially available and widely used for industrial dishwashing applications. Accordingly, such an apparatus does not represent an unobvious difference over the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-Th 9:30 to 6:00.

Art Unit: 1751

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571 272 1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Charles I Boyer
Primary Examiner
Art Unit 1751